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2011 Edition

Repossessions in Connecticut

A Guide to Resources in the Law Library

- "Repossession statutes are enacted to protect the consumer from well documented repossession abuses and to encourage and promote compliance with the laws governing such actions." [Jacobs v. Healey Ford-Subaru, Inc.](#), 231 Conn. 707, 722 (1995).
- **Retail Installment Sales Financing Act (RISFA):** "General Statutes § 36a-785 sets out the procedure that a holder of a retail installment contract must follow in order to repossess goods after a retail buyer breaches the contract. This section provides, in pertinent part: '(a) Repossession. When the retail buyer is in default in the payment of any sum due under the retail installment contract . . . the holder of the contract may take possession thereof . . .' General Statutes § 36a-785 (a)." [GE Capitol Auto Lease, Inc. v. Blackwell](#), No. CV97 0059201S, J.D. Ansonia-Milford (Sep. 5, 2001).
- **Uniform Commercial Code:** "A transaction subject to sections 36a-770 to 36a-788, inclusive [(RISFA)], 42-100b and 42-100c is also subject to the Uniform Commercial Code, title 42a, but in case of any conflict the provisions of sections 36a-770 to 36a-788, inclusive, 42-100b and 42-100c shall control." CONN. GEN. STAT. [§ 36a-770 \(a\)](#) (2011)
- **Secured Transaction:** "A [business] transaction, regardless of form, that creates a security interest in personal property or fixtures [collateral] . . ." CONN. GEN. STATS. [§ 42a-9-109\(a\)\(1\)](#). (2011)

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only a beginning to research.**

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case law hosted on Google Scholar. The online versions are for informational purposes only.**

Section 1: What Can Be Repossessed?

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to secured transactions under Article 9 of the Uniform Commercial Code and types of personal property or fixtures that can be repossessed thereunder in Connecticut.

DEFINITIONS:

- **Secured transaction:** “A [business] transaction, regardless of form, that creates a security interest in personal property or fixtures [collateral] . . .” CONN. GEN. STATS. [§ 42a-9-109\(a\)\(1\)](#) (2011).
- **Security interest:** “means an interest in personal property or fixtures which secures payment or performance of an obligation.” CONN. GEN. STAT. [§ 42a-1-201\(b\)\(35\)](#) (2011).
- **Security agreement:** “means an agreement that creates or provides for a security interest.” CONN. GEN. STAT. [§ 42a-9-102\(a\)\(73\)](#) (2011).
- **Consumer goods transaction:** “means a consumer transaction in which:
 - (A) An individual incurs an obligation primarily for personal, family or household purposes; and
 - (B) A security interest in consumer goods secures the obligation.” CONN. GEN. STAT. [§ 42a-9-102\(a\)\(24\)](#) (2011).
- **Consumer debtor:** “means a debtor in a consumer transaction.” CONN. GEN. STAT. [§ 42a-9-102\(a\)\(22\)](#) (2011).
- **Consumer Obligor:** “means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family or household purposes.” CONN. GEN. STAT. [§ 42a-9-102\(a\)\(25\)](#) (2011).
- **Goods:** “means all things that are movable when a security interest attaches.” CONN. GEN. STAT. [§ 42a-9-102\(a\)\(44\)](#) (2011).
- **Small Loan Lenders:** “No licensee [small loan lenders] shall take . . . security interest in or assignment or pledge of household goods or an assignment of wages as security for any loan made under sections 36a-555 to 36a-573, inclusive. A licensee may take a security interest in chattels or personal property other than household goods, except a security interest in an automobile may not be taken as security for any loan where the cash advance is one thousand eight hundred dollars or less. A licensee may take a security interest in real estate on loans made under said sections where the cash advance is in excess of one thousand eight hundred dollars, but may not take such a security interest in real estate where the cash advance is one thousand eight hundred dollars or less.” CONN. GEN. STAT. [§ 36a-568](#) (2011).
- **Household furniture:** “Any agreement for security in household furniture owned and in the possession of an individual and used primarily for housekeeping purposes shall be effective only to the extent that the agreement involves a purchase-money security interest as provided in section 42a-9-103a.” CONN. GEN. STAT. [§ 42a-9-206a](#) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
 - Chapter 669. Banking Law of Connecticut. Regulated activities
 - Part XI. **Retail installment sales financing**
 - [§ 36a-771](#). General contract requirements
 - [§ 36a-774](#). Installment loan contract requirements
 - [§ 36a-775](#). Confession of judgment provision invalid
 - [§ 36a-776](#). Inclusion of other goods in contract void
 - [§ 36a-777](#). Acknowledgment of receipt of notice and statement
 - [§ 36a-778](#). Delinquency and collection charges
 - [§ 36a-779](#). Assignment of contract
 - [§ 36a-780](#). Payments after assignment
 - [§ 36a-781](#). Statement of payments made. Receipts
 - [§ 36a-782](#). Cancellation of contract on payment in full
 - [§ 36a-783](#). Rebate and refund upon prepayment of contract
 - [§ 36a-784](#). Renewals and extensions
 - [§ 36a-785](#). Foreclosure
 - (a) **Rrepossession**

Title 42a. Uniform Commercial Code

Article 9. Secured Transactions

- [§ 42a-9-109](#). Scope
- [§ 42a-9-202](#). Title to collateral is immaterial
- [§ 42a-9-201](#). General effectiveness of security agreement
- [§ 42a-9-203](#). Attachment and enforceability of security interest.
 - Proceeds. Supporting Obligations. Formal requisites

WEST KEY NUMBERS:

- SECURED TRANSACTIONS # 1-80. Nature, Requisites, and Validity
 - # 1-40. Nature and essentials
 - # 41-60. Security agreements
 - # 61-80. Validity

DIGESTS:

- DOWLING'S DIGEST: *Secured Transactions*
 - 1. Introduction
 - 2. What constitutes
 - 3. Validity and operation
 - 4. Rights and remedies of buyer and seller

COURT CASES:

- [F. D. I. C. v. Colonial Cromwell Commons LTD. Partnership](#), 881 F. Supp. 87, 91 (D. Conn. 1995). “‘Perfection’ is the process by which a secured party puts third-parties on notice of its interest in an asset. ‘Enforcement,’ however, refers to the steps that secured party must take to enforce its rights in collateral.”
- [Fantry v. Medical Capital Corp.](#), J.D. Hartford. No. CV 00-0596326 (Jan. 4, 2002). “The defendants argue that the loan and option agreement signed by the parties is insufficient to create a valid security agreement because it does not grant a security interest, and, alternatively, that it does not adequately describe the collateral, as required by statute.”
- [New Haven Water Co. Employees Credit Union v. Burroughs](#), 6 Conn. Cir. Ct. 709, 710-711, 313 A.2d 82 (1973). “Likewise it is clear that the defendant is not considered a ‘retail buyer’ for the purposes of § 42-98. Likewise it is clear that the promissory note executed by the defendant and cosigned by Benjamin Della Camera, whose 1968 automobile was put up as collateral, is neither a ‘retail installment contract’ nor a ‘installment loan contract’ within the meaning of § 42-98. Rather it

appears from the record that the defendant obtained a loan and offered as collateral the automobile owned by Della Camera. The defendant was not purchasing the automobile, and no security interest was taken in any goods for the purchase of which money was loaned.”

ENCYCLOPEDIAS:

- 68A [AM. JUR. 2d Secured Transactions](#) (2003).
 - §§ 1-132. Introduction
 - §§ 102-132. Transactions Subject to Article 9
 - §§ 133-238. Creation of security interest; Security agreement
 - §§ 239-252. Attachment of security interest
 - § 253-258. Assignment of security interest
 - §§ 259-474. Perfection of security interest
 - §§ 475-513. Rights, duties, and liabilities of parties prior to default
- 79 [C.J.S. Secured Transactions](#) (2006).
 - §§ 7-19. Nature, requisites and validity
 - § 8. Property and rights subject to security interest
- Annotation, *Secured Transactions: What Constitutes “Consumer Goods” Under UCC § 9-109(1)*, 77 [ALR3d](#) 1225 (1977).
- J. P. Ludington and A. L. Schwartz, Annotation, *Construction And Effect of UCC Art 9, Dealing With Secured Transactions, Sales Of Accounts, Contract Rights, And Chattel Paper*, 30 [ALR3d](#) 9 (1970).

TEXTS & TREATISES:

- [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2011).
 - Chapter 3. Enforceable security interests
 - § 3.1. Valid security interest as precondition to seizure of personal property
 - § 3.2. Elements of a valid security interest
 - § 3.3. Continued enforceability after security interest created
 - § 3.4. Non-Purchase money security interests
 - § 3.5. Automobiles and manufactured homes as collateral
 - § 3.6. Credit card issuer’s interest in goods purchased with card
 - § 3.7. Series of purchases from the same merchant
 - § 3.8. Refinancings and consolidations
 - § 3.9. Future advance and antecedent debt clauses
 - § 3.10. Consumer remedies
 - [EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE](#) (2008).
 - § 11.8. Repossession

LAW REVIEWS:

- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75 [CONN. BAR J.](#) 294 (December 2001).
- David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 YALE L.J. 185 (1967).

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Table 1 Lease vs. security interest

Lease (Article 2A) vs. Security Interest (Article 9)
<p>(a) Whether a transaction in the form of a lease creates a lease or a security interest is determined by the facts of each case.</p> <p>(b) A transaction in the form of a lease creates a security interest if the consideration that the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease and is not subject to termination by the lessee, and:</p> <ul style="list-style-type: none">(1) The original term of the lease is equal to or greater than the remaining economic life of the goods;(2) The lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods;(3) The lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement; or(4) The lessee has an option to become the owner of the goods for no additional consideration or for nominal additional consideration upon compliance with the lease agreement. <p>CONN. GEN. STATS. § 42a-1-203 (2010).</p>
<ul style="list-style-type: none">▪ <u>NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES</u> (7th ed. 2010).<ul style="list-style-type: none">Chapter 14. Consumer Leases<ul style="list-style-type: none">§ 14.1. General<ul style="list-style-type: none">§ 14.1.2. When is a lease covered by UCC Article 9§ 14.1.3. Applicable law when Article 9 does not apply<ul style="list-style-type: none">§ 14.1.3.1. UCC Article 2A§ 14.1.3.2. The Federal Consumer Leasing Act§ 14.1.3.3. State consumer statutes governing leases§ 14.1.3.4. State deceptive practices and debt collection statutes§ 14.2. Automobile leases<ul style="list-style-type: none">§ 14.2.1. Does Article 9 or Article 2A regulate lease repossession?§ 14.3. Rent-to-Own Transactions

Table 2 Security interest and automobiles

Civil Rights and repossession of automobile	<ul style="list-style-type: none"> “The initial, and here the key question is whether or not the defendant Bank's peaceful repossession of the plaintiff's automobile on August 23, 1972, constitutes 'state action' so as to support a claim under 42 U.S.C. § 1983.” Shirley v. State Nat. Bank of Connecticut, 493 F.2d 739, 741 (C.A.2 (Conn.) 1974). “We see no other theory of state involvement here which is possibly applicable. We recognize that the problems involved in determining whether 'state action' is present are not susceptible of solution by facile formulae. Our examination of the Supreme Court decisions, as well as those of our own and other circuits, compels the conclusion, however, that none is present here.” <i>Ibid.</i>, 745.
Late Payments, past acceptance of	<p>“The plaintiff next claims that because Midland repeatedly demanded and accepted late payments it lost the right to repossess the vehicle without first giving the plaintiff written notice that the payment schedule would be strictly enforced and that late payments would no longer be tolerated. The gravamen of the plaintiff's argument is that Midland should not be permitted to invoke a formal provision of the agreement that the plaintiff reasonably believed would not be enforced.</p> <p>Subsequent to the trial of the present case, our Supreme Court in <i>Gaynor v. Union Trust Co.</i>, 216 Conn. 458, 468-70, 582 A.2d 190 (1990), held that a creditor's toleration of one or more defaults does not require a creditor to indulge subsequent late payments.” Velazquez v. Marine Midland Auto. Fin. Corp., 24 Conn. App. 455, 460-461, 590 A.2d 116 (1991).</p>
Notice of rights in repossession	“The plaintiff next claims that the notice sent by Midland after repossessing her car failed to satisfy the UCC and RISFA. She contends that the postrepossession notice misrepresented her redemption rights and inaccurately stated her accelerated balance. The plaintiff further maintains that Midland failed to send her notice of the sale proceeds as required by RISFA. We reject the plaintiff's arguments.” Velazquez v. Marine Midland Auto. Fin. Corp. , 24 Conn. App. 455, 461-462, 590 A.2d 116 (1991).
Personal property in a repossessed automobile	“After review of the loan agreement, the court determined that the plaintiff had not consented to the defendant's possession of the personal property. The court concluded that the defendant was liable for conversion.” Clark v. Auto Recovery Bureau Conn., Inc. , 889 F. Supp. 543, 548 (D. Conn. 1994).
Strict compliance is mandatory	“In consumer transactions, strict compliance with statutory provisions that prescribe the informational content of retail installment contracts is mandatory and is not excused by inadvertence Although the trial court did not find that the plaintiffs had sustained actual damages, the defendant nonetheless statutorily forfeited its right to recover both its repossession and its storage costs because of the inaccuracy of its notice. The trial court should have reduced the defendant's recovery to reflect this statutory mandate in its entirety.” Gaynor v. Union Trust Co. , 216 Conn. 458, 475-476, 582 A.2d 190 (1990)

Section 2:

Default and Repossession

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to default as a precondition of repossession.

DEFINITION:

- “In consumer transactions, strict compliance with statutory provisions that prescribe the informational content of retail installment contracts is mandatory and is not excused by inadvertence.” [Gaynor v. Union Trust Co.](#), 216 Conn. 458, 475, 582 A.2d 190, (1990).
- **Default:** “When the retail buyer is in default in the payment of any sum due under the retail installment contract or installment loan contract, or in the performance of any other condition that such contract requires him to perform, or in the performance of any promise, the breach of which is by such contract expressly made a ground for the retaking of the goods, the holder of the contract may retake possession thereof, provided the filing of a petition in bankruptcy under 11 USC Chapter 7 by a retail buyer of a motor vehicle, or such retail buyer's status as a debtor in bankruptcy, shall not be considered a default of a retail installment contract or ground for repossession of such motor vehicle.” CONN. GEN. STAT. [§ 36a-785\(a\)](#) (2011).
- **Unaccelerated amount due:** During such [redemption] period the retail buyer, upon payment or tender of the unaccelerated amount due under such contract at the time of retaking and interest . . . and upon payment of the actual and reasonable expenses of any retaking and storing, may redeem such goods and become entitled to take possession of the same and to continue in the performance of such contract as if no default had occurred.” CONN. GEN. STAT. [§ 36a-785\(c\)](#) (2011)

STATUTES:

- CONN. GEN. STAT. (2011)
Chapter 669. Banking Law of Connecticut. Regulated activities
Part XI. **Retail installment sales financing**
[§ 36a-785](#). Foreclosure
 - (a). Repossession
 - (b). Notice of intention to reposess

WEST KEY NUMBERS:

- SECURED TRANSACTIONS # 221-243. Default and enforcement
 - # 221. Rights and remedies of secured party in general
 - # 222. Default of debtor

DIGESTS:

- DOWLING'S DIGEST: *Secured Transactions*
 - 4. Rights and remedies of buyer and seller

COURT CASES:

- [Gaynor v. Union Trust Co.](#), 216 Conn. 458, 467, 582 A.2d 190 (1990).
“We therefore construe 42-98 (a) as requiring no special contractual language to communicate the consequences of a default in payments, such as occurred in this case, or a nonperformance of a condition. The legislature might logically have deemed it important to require a

consumer contract expressly to give warning of the risk of retaking in the event of a failure to perform "any promise" because consumer buyers might otherwise not have understood that they might lose their collateral even though their payments were current and they had fulfilled all the conditions in their installment contract. That is not this case. We conclude, accordingly, that the defendant had the statutory authority to retake the plaintiffs' car."

ENCYCLOPEDIAS:

- 68A [AM. JUR. 2d Secured Transactions](#) (2003).
 §§ 514-726. Default of debtor; Rights, remedies, duties, and liabilities of parties upon default
 §§ 521-528. Rights and remedies of debtor upon default
 §§ 529-682. Rights, remedies, duties, and liabilities of secured creditor and other interested parties upon default
- 79 [C.J.S. Secured Transactions](#) (2006).
 §§ 178-233. Default and enforcement
- Jay M. Zitter, Annotation, *Secured Transactions: Right Of Secured Party To Take Possession Of Collateral On Default Under UCC § 9-503*, 25 [ALR5th](#) 696 (1994).

TEXTS & TREATISES:

- [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
 Chapter 4. Default as precondition to seizure
 § 4.1. Default and acceleration
 § 4.2. Limits on default and acceleration
 § 4.3. Creditor's waiver of right to declare default
 § 4.4. Relationship of default to consumer's defenses or counterclaims
 § 4.5. The right to cure a default
 § 4.6. A special case: Yo-Yo (Spot delivery) Sales
 § 4.7. Remedies
- [EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE](#) (2008).
 § 11.8. Repossession

LAW REVIEWS:

- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75 [CONN. BAR J.](#) 294 (December 2001).
- David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 [YALE L.J.](#) 185 (1967).

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Section 3: Methods of Retaking the Goods

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Self-help Repossession: "Unless the goods can be retaken without breach of the peace, it shall be retaken by legal process, but nothing herein contained shall be construed to authorize a violation of the criminal law. In the case of repossession of any motor vehicle without the knowledge of the retail buyer, the local police department shall be notified of such repossession immediately thereafter. In the absence of a local police department or if the local police department cannot be reached for notification, the state police shall be promptly notified of such repossession." CONN. GEN. STAT. [§ 36a-785\(a\)](#)(2011).

Notice of intent to reposess: "Not less than ten days prior to the retaking, the holder of such contract, if he so desires, may serve upon the retail buyer, personally or by registered or certified mail, a notice of intention to retake the goods on account of the buyer's default." CONN. GEN. STAT. [§ 36a-785\(b\)](#)(2011).

Voluntary surrender: " It is true that a voluntary surrender of a vehicle by a buyer in default may constitute a repossession by the holder of a retail installment contract, See, e.g., *Union Trust Co. v. Hardy*, 400 A.2d 384, 388 (ME. 1979)." [A-1 Auto Service, Inc. v. Horkavy](#), No. CV 96 0392187 (May 24, 2001), 2001 Ct. Sup. 6948.

"Here, the plaintiffs were not in physical possession of their vehicle through no fault of their own, it was involved in an accident, presumably immobile and the defendant creditor did not have to physically retake the vehicle to protect its security interest and the value of such interest. But that does not mean the security holder, such as the defendant, can take steps consistent with control or dominion over the vehicle such as by declaring it has repossessed the same and by making a claim to its carrier based on such repossession. After all, a deficiency judgment is the end result of the repossession process." [Wormer v. Charter Oak Federal Credit Union](#), No. 114865 (Aug. 23, 2000).

Section 3a: Self-Help Repossessions in Connecticut

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to self-help procedures that lenders may follow to repossess goods under Connecticut Retail Installment Sales Financing Act (RISFA) and Connecticut's version of Article 9 of the Uniform Commercial Code (UCC).

SEE ALSO:

- [Repossession by notice of intent](#)

DEFINITION:

- **History:** "Private self-help remedies extend as far back as ancient Greece, where those entitled to seize chattels from a debtor were not prohibited from breaching the peace or physically injuring the debtor in the course of repossession . . . Early Roman law permitted similar self-help remedies, including the right to seize the person of a debtor, without court action, after a default in payment . . . Later, the right to repossess goods was recognized in the common law of England." [State v. Indrisano](#), 29 Conn. App. 283, 286, 613 A.2d 1375 (1992).
- "Today, the same common law principle is embodied in General Statutes 42a-9-503 [see 42a-9-609], which permits a secured party to forgo the judicial process and resort to self-help repossession, but without breaching the peace. Enticing as this mode of recovery may be to creditors, nonjudicial repossession nevertheless presents 'an element of inherent danger.' [Sanchez v. MBank of El Paso](#), 792 S.W.2d 530, 532 (Tex. App. 1990). Because the repossession may commit a trespass in attempting to recover goods without the owner's consent and, often, against his will, there is a considerable risk that breach of the peace, assault or other violence may occur. Id. With this brief historical background in mind, we commence our analysis." Ibid., pp. 286-287.
- "After default, a secured party may sell, lease, license or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing." CONN. GEN. STAT. [§ 42a-9-610\(a\)](#) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
 - Chapter 669. Banking Law of Connecticut. Regulated activities
 - Part XI. **Retail installment sales financing**
 - [§ 36a-785](#). Foreclosure
 - (a). **Repossession**
- Title 42a. Uniform Commercial Code
 - Article 9. Secured Transactions
 - [§ 42a-9-609](#). Secured party's right to take possession after

default. Use of electronic self-help restricted.

LEGISLATIVE:

- *Daniel Duffy, Redeeming A Repossessed Motor Vehicle*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report no. 2002-R-0270 (February 26, 2002).
URL: <http://www.cga.ct.gov/2002/olrdata/gl/rpt/2002-R-0270.htm>

PLEADINGS:

- *Sample Complaint Alleging Violation of 42 U.S.C. § 1983, Conversion, and Breach of Peace*, Appendix D.4, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).

WEST KEY NUMBERS:

- ANTITRUST AND TRADE REGULATION
 - #134. In general.
 - #135. Practices, prohibited or required.
 - #191-196. Motor vehicles

DIGESTS:

- DOWLING'S DIGEST: *Secured Transactions*
 - 1. Introduction
 - 2. What constitutes
 - 3. Validity and operation
 - 4. Rights and remedies of buyer and seller

CASES:

- [Worner v. Charter Oak Federal Credit Union](#), No. 114865 (Aug. 23, 2000). "The UCC in § 42a-9-503 talks about the secured party's right to take possession after default of a condition of the security agreement. Again, the statute says 'in taking possession,' the secured party can proceed without judicial process if this can be done 'without breach of the peace or may proceed by action.'"
- [State v. Indrisano](#), 29 Conn. App. 283, 291-292, 613 A.2d 1375 (1992). "Finally, we note that although the defendant may have been entitled to repossess the copy machine in the manner prescribed by Article 9 of our commercial code, the right to engage in self-help does not license lessors and their agents to abuse physically any person in the course of repossession While it is true that the law has long recognized the right to forgo often costly and time-consuming judicial procedures in favor of peaceful, self-help repossession of chattels, it must not be forgotten that this 'freedom given creditors in repossession must be balanced with the need to avoid possibly violent confrontations' *Riley State Bank v. Spillman*, 242 Kan. 696, 703, 750 P.2d 1024 (1988)."
- [Gaynor v. Union Trust Co.](#), 216 Conn. 458, 467, 582 A.2d 190 (1990). "We therefore construe 42-98 (a) [now 36a-785] as requiring no special contractual language to communicate the consequences of a default in payments, such as occurred in this case, or a nonperformance of a condition. The legislature might logically have deemed it important to require a consumer contract expressly to give warning of the risk of retaking in the event of a failure to perform 'any promise' because consumer buyers might otherwise not have understood that they might lose their collateral even though their payments were current and they had fulfilled all the conditions in their installment contract. That is not this case. We conclude, accordingly, that the defendant had the statutory authority to retake the plaintiffs' car."
- [State v. Messier](#), 16 Conn. App. 455, 462, 549 A.2d 270 (1988). "A defendant in pursuit of the repossession of his property cannot

burglarize another's home and assault him with impunity. We conclude, therefore, that a defendant cannot expect to avoid a conviction by employing such a defense."

ENCYCLOPEDIAS:

- 68A [AM. JUR. 2d Secured Transactions](#) (2003)
 § 546. Creditor's right to take possession generally
- 79 [C.J.S. Secured Transactions](#) (2006).
 §§178-233. Default and enforcement
- *Cause Of Action For Conversion Of Collateral Based On Wrongful Self-Help Repossession*, 15 [COA](#) 347 (1988).
- Jay M. Zitter, Annotation, *Secured Transactions: Right Of Secured Party To Take Possession Of Collateral On Default Under UCC § 9-503*, 25 [ALR5th](#) 696 (1994).
- Gary D. Spivey, Annotation, *Validity, Under State Law, Of Self-Help Repossession Of Goods Pursuant To UCC § 9-503*, 75 [ALR3d](#) 1061 (1977).
- Russell J. Davis, Annotation, *Private Person's Enforcement Of Lien Through Self-Help As Act "Under Color Of State Law" Within Meaning Of 42 USCS § 1983*, 32 [ALR Fed](#) 431 (1977).
- Gary D. Spivey, Annotation, *Validity, Under Federal Constitution And Laws, Of Self-Help Repossession Provision Of § 9-503 Of Uniform Commercial Code*, 29 [ALR Fed](#) 418 (1976).

TEXTS & TREATISES:

- [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed, 2010).
 - Chapter 6. Self-Help Repossessions
 - § 6.1. Introduction
 - § 6.2. Representing the client before repossession
 - § 6.3. Bars to repossession
 - § 6.4. Repossession must not breach the peace
 - § 6.5. Other self-help repossession restrictions
 - § 6.6. Electronic Repossession
 - [EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE](#) (2008).
 - § 11.8. Repossession

WEBSITE:

- [REPOSESSION IN CONNECTICUT](#)

LAW REVIEWS:

- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75 [CONN. BAR J.](#) 294 (December 2001).
- David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 YALE L.J. 185 (1967).

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Section 3b: Repossession by Notice of Intent

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to repossession in Connecticut through the use of a notice of intent to reposess under CONN. GEN. STAT. [§ 36a-785\(b\)](#) (2011)

TREATED ELSEWHERE:

- [Self -help reposessions in Connecticut](#)

DEFINITION:

- "When the retail buyer is in **default** in the payment of any sum due under the retail installment contract or installment loan contract . . . the holder of the contract may retake possession thereof . . ." CONN. GEN. STAT. [§ 36a-785\(a\)](#) (2011).
- **Notice of intent to reposess:** "Not less than ten days prior to the retaking, the holder of such contract, if he so desires, may serve upon the retail buyer, personally or by registered or certified mail, a notice of intention to retake the goods on account of the buyer's default. The notice shall state the default and the period at the end of which such goods will be retaken, and shall briefly and clearly state what the retail buyer's rights under this subsection will be in case such goods are retaken." CONN. GEN. STAT. [§ 36a-785\(b\)](#)(2011).
- **Without right of redemption:** "If the notice [of intent to reposess] is so served and the buyer does not perform the conditions and provisions as to which he is in default before the day set for retaking, the holder of the contract may retake said goods and hold such subject to the provisions of subsections (d), (e), (f), (g) and (h) of this section regarding resale, but without any right of redemption." Ibid.

STATUTES:

- CONN. GEN. STAT. (2011)
 - Chapter 669. Banking Law of Connecticut. Regulated activities
 - Part XI. **Retail installment sales financing**
 - [§ 36a-785\(b\)](#). Foreclosure. Notice of intent to reposess
 - Title 42a. Uniform Commercial Code
 - Article 9. Secured Transactions
 - [§ 42a-9-609](#). Secured party's right to take possession after default. Use of electronic self-help restricted.

LEGISLATIVE:

- *Daniel Duffy, Redeeming A Repossessed Motor Vehicle*, Connecticut General Assembly, Office of Legislative Research, OLR Research Report no. 2002-R-0270 (February 26, 2002).
URL: <http://www.cga.ct.gov/2002/olrdata/gl/rpt/2002-R-0270.htm>

- WEST KEY NUMBERS:**
- SECURED TRANSACTIONS
228. Possession by secured party
- DIGESTS:**
- DOWLING'S DIGEST: *Secured Transactions*
 1. Introduction
 2. What constitutes
 3. Validity and operation
 4. Rights and remedies of buyer and seller
- COURT CASES:**
- Condor Capital Corp. v. Michaud, No. CV 99-0588911-S (Jul. 25, 2000). "RISFA sets forth the steps that the holder of a retail instalment sales contract must undertake when it seeks repossession of consumer goods purchased under a retail instalment contract. See General Statutes § 36a-785. Specifically, § 36a-785 (b) provides that the holder of such a contract may, but is not required to, serve upon the retail buyer personally or by certified or registered mail a notice of intention to repossess on account of the buyer's default. If the holder chooses this option, it must state the nature of the default and the period of time at the end of which the goods will be taken if the default is not cured. If the retail buyer does not cure the default with the period of time set forth in the notice, the holder can then retake the goods and resell them in accordance with subsections (d), (e), (f), (g) and (h) of the statute without any right of redemption. This notice must be served on the retail buyer not less than ten (10) days prior to the time set for repossession and must 'briefly and clearly state' what the buyer's rights are under this subsection should the goods be retaken. See General Statutes § 36a-785 (b).
 - Moye v. Credit Acceptance Corp., No. X01-99-0157073 (Nov. 3, 2000). "In Count One, plaintiffs . . . allege both that the post-repossession notice CAC provided to them violated RISFA by stating that the plaintiffs must pay the accelerated debt plus repossession costs and storage charges in order to redeem their vehicles. RISFA, at § 36a-785 (b), does not require a pre-repossession notice to the retail buyer but makes provision of such a notice discretionary with the holder of the contract: 'Not less than ten days prior to the retaking, the holder of such contract, IF HE SO DESIRES, MAY serve upon the retail buyer . . . a notice of intention to retake the goods . . .' Failure to provide such a notice is therefore not a violation of RISFA. The plaintiffs have alleged the lack of such a notice apparently only as preamble to the allegation of a violation of a requirement that applies where a holder has elected not to provide prior notice of a repossession."
 - Cadle Co. v. Prodoti, 45 Conn. Sup. 325, 326, 716 A.2d 965 (1998). On November 8, 1991, the bank wrote to Prodoti informing him that he owed \$661.66 and that it intended to repossess his automobile unless he paid that sum by November 18, 1991. It further informed him that if repossession occurred, the property would be sold at private sale pursuant to General Statutes (Rev. to 1991) § 42-98 (now codified as amended at General Statutes § 36a-785) and that he would be responsible for any deficiency pursuant to § 42-98 (g). Prodoti made no payment, and the bank repossessed the automobile. (The actual repossession date does not appear in the documents submitted by the parties.) The automobile was sold on February 20, 1992, leaving a deficiency balance allegedly owed by Prodoti."

- GE Capitol Auto Lease, Inc. v. Blackwell, No. CV97 0059201S (Sep. 5, 2001). "In several cases, judges of the Superior Court have recognized that the issue of whether a transaction is a sale or a lease is a question of fact which must be decided before the court can determine whether RISFA applies to the transaction."

ENCYCLOPEDIAS:

- 68A AM. JUR. 2d Secured Transactions(2003)
§ 546. Creditor's right to take possession generally
- 79 C.J.S. Secured Transactions (2006).
§§ 178-233. Default and enforcement

TEXTS & TREATISES:

- NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES (7th ed, 2010).
- EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE (2008).

WEBSITE:

- REPOSESSION IN CONNECTICUT

LAW REVIEWS:

- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75 CONN. BAR J. 294 (December 2001).
- David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 YALE L.J. 185 (1967).

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Section 4: Redemption

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to redemption

**TREATED
ELSEWHERE:**

- [Section 2: Default and Repossession](#)

DEFINITION:

- “Provisions of redemption are designed to avoid forfeiture of the amount paid by the conditional vendee and prevent unjust enrichment of the vendor on terms fair to both.” *Auto Acceptance Corporation v. Veneziano*, 2 Conn. Cir. Ct. 708, 713, 205 A.2d 788, cert. den. 152 Conn. 729 (1964).
- **Redemption:** "If the holder of such contract does not give the notice of intention to retake, described in subsection (b), he shall retain such goods for fifteen days after the retaking within the state in which they were located when retaken. During such period the retail buyer, upon payment or tender of the unaccelerated amount due under such contract at the time of retaking and interest, or upon performance or tender of performance of such other condition as may be named in such contract as precedent to the retail buyer's continued possession of such goods, or upon performance or tender of performance of any other promise for the breach of which such goods were retaken, and upon payment of the actual and reasonable expenses of any retaking and storing, may redeem such goods and become entitled to take possession of the same and to continue in the performance of such contract as if no default had occurred." CONN. GEN. STAT. [§ 36a-785\(c\)](#) (2011).
- **Curing the default:** "This period of fifteen days (ten days in New York and New Jersey) is a grace period in which the buyer may cure his default." *Auto Acceptance Corporation v. Veneziano*, 2 Conn. Cir. Ct. 708, 713, 205 A.2d 788, cert. den. 152 Conn. 729 (1964).
- **Computation:** "In the computation of the fifteen-day retention period, the day of the taking must be excluded and the last day included; the must fully expire before a sale may be had; the buyer has until midnight of the fifteenth day in which to redeem; the statute requires the seller to retain the goods 'for fifteen days' not 'until the fifteenth day.'" Ibid., p.712
- **3 days after retaking:** "The holder of such contract shall within three days of the retaking furnish or mail, by registered or certified mail, to the last known address of the buyer a written statement of the unaccelerated sum due under such contract and the actual and reasonable expense of any retaking and storing. For failure to furnish or mail such statement as required by this section, the holder of the contract shall forfeit the right to claim payment for the actual and reasonable expenses of retaking and storage, and also shall be liable for the actual damages suffered because of such failure."

CONN. GEN. STAT. [§ 36a-785\(c\)](#) (2011).

- **Perishable goods:** "If such goods are perishable so that retention for fifteen days as herein prescribed would result in their destruction or substantial injury, the provisions of this subsection shall not apply and the holder of the contract may resell the goods immediately upon such retaking." CONN. GEN. STAT. [§ 36a-785\(c\)](#)(2011).

STATUTES:

- CONN. GEN. STAT. (2011)

Chapter 669. Banking Law of Connecticut. Regulated activities

Part XI. **Retail installment sales financing**

[§ 36a-770.](#) Applicability of Uniform Commercial Code. Filing and recording. Definitions

“(a) Uniform Commercial Code. A transaction subject to sections 36a-770 to 36a-788, inclusive, 42-100b and 42-100c is also subject to the Uniform Commercial Code, title 42a, but in case of any conflict the provisions of sections 36a-770 to 36a-788, inclusive, 42-100b and 42-100c shall control.”

[§ 36a-785.](#) Foreclosure

(a). **Rrepossession**

(c). Redemption

(d). Compulsory resale

(e). Proceeds of resale

(f). Deficiency on resale

(g). Fair market value

(h). Election of remedies

(i). Recovery of part payments

(j). Waiver of statutory protection

(k). Loss

[§ 36a-786.](#) Recovery of charges barred by wilful violations

[§ 36a-787.](#) Penalty

[§ 36a-788.](#) Enforcement action

Title 42a. Uniform Commercial Code

Article 9. Secured Transactions

[§ 42a-9-609.](#) Secured party's right to take possession after default. Use of electronic self-help restricted.

[§ 42a-9-610.](#) Disposition of collateral after default

WEST KEY NUMBERS:

- SECURED TRANSACTIONS
§ 241. Redemption of collateral

DIGESTS:

- DOWLING'S DIGEST: *Secured Transactions*
4. Rights and remedies of buyer and seller

COURT CASES:

- [Connecticut Bank & Trust Co. v. Incendy](#), 207 Conn. 15, 23, 540 A.2d 32 (1988). “The basic rationales for these holdings are that (a) the mandatory nature of the notice provisions of 9-504 (3) of the Uniform Commercial Code require that when a creditor elects the remedy of repossession and subsequent sale, it is the creditor's obligation to notify the debtor and it is the creditor's burden to establish the reasonableness of such notice, and (b) the notice provisions were specifically adopted for the benefit of the debtor, to protect the debtor's interest in his statutory right to redeem the collateral, thereby helping to ensure that the best possible price will be obtained for the collateral, that the sale will be conducted in a commercially reasonable manner, and that the debtor

will immediately be placed on notice of the possibility of a deficiency for which he may ultimately be held liable.”

ENCYCLOPEDIAS:

- 68A [AM. JUR. 2d Secured Transactions](#)
 - §§ 523-528. Debtor's right to redeem collateral
 - § 523. Generally
 - § 524. Scope of rights of redemption of collateral
 - § 525. Time for redemption of collateral
 - § 526. Tender of payment
 - § 527. —Excuse of failure to tender payment
 - § 528. Waiver of debtor's right to redeem
 - 79 [C.J.S. Secured Transactions \(2006\)](#).
 - § 226. Redemption of collateral

TEXTS & TREATISES:

- [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES \(7th ed, 2010\)](#).
 - Chapter 4. Default as Precondition to Seizure
 - § 4.2. Limits on default and acceleration
 - § 4.5. The right to cure a default
 - § 4.5.2. State statutory rights to cure
 - § 4.5.2.2. The notice requirement
 - Chapter 9. Disposition of repossessed collateral other than by creditor's sale: Reinstatement, redemption, strict foreclosure, sheriff's sale, and consumer's sale
 - § 9.3. Redemption of collateral
 - § 9.3.1. Nature, advantages, and disadvantages of redemption
 - § 9.3.2. Absolute right until disposition
 - § 9.3.3. Debtor's continued ownership of the collateral during the redemption period.
 - § 9.3.4. Who can redeem.
 - § 9.3.5. Notice of right to redeem
 - § 9.3.6. Determination of redemption amount
 - § 9.3.7. Tender
 - § 9.3.8. Remedies for secured party's violation of redemption rights.
 - § 9.3.9. Waiver
- [EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE \(2008\)](#).
 - § 11.19. Right of redemption

WEBSITE:

- [REPOSESSION IN CONNECTICUT](#)

LAW REVIEWS:

- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75 [CONN. BAR J.](#) 294 (December 2001).
- David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 YALE L.J. 185 (1967).

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Table 3 Redemption under RISFA

Repossession Procedures under Connecticut's Retail Installment Sales Financing (RISFA)	
Redemption	<p>“If the holder of such contract does not give the notice of intention to retake, described in subsection (b), he shall retain such goods for fifteen days after the retaking within the state in which they were located when retaken. During such period the retail buyer, upon payment or tender of the unaccelerated amount due under such contract at the time of retaking and interest, or upon performance or tender of performance of such other condition as may be named in such contract as precedent to the retail buyer's continued possession of such goods, or upon performance or tender of performance of any other promise for the breach of which such goods were retaken, and upon payment of the actual and reasonable expenses of any retaking and storing, may redeem such goods and become entitled to take possession of the same and to continue in the performance of such contract as if no default had occurred.” CONN. GEN. STAT. <u>§ 36a-785(c)</u> (2011).</p>

Section 5:

Resale of Goods

A Guide to Resources in the Law Library

- SCOPE:**
- Bibliographic resources relating to resale of goods and dispossession of collateral.

- DEFINITION:**
- **Notice of sale:** “The holder of the contract shall give the retail buyer not less than ten days' written notice of the time and place of any public sale, or the time after which any private sale or other intended disposition is to be made, either personally or by registered mail or by certified mail received for mailing directed to the retail buyer at his last-known place of business or residence. The holder of the contract may bid for such goods at any public sale.” CONN. GEN. STAT. [§ 36a-785\(d\)](#) (2011)

- STATUTES:**
- CONN. GEN. STAT. (2011)
Chapter 669. Banking Law of Connecticut. Regulated activities
Part XI. **Retail installment sales financing**
[§ 36a-770](#). Applicability of Uniform Commercial Code. Filing and recording. Definitions
[§ 36a-785](#). Foreclosure
(d). Compulsory resale
(e). Proceeds of resale

- PLEADINGS:**
- *Complaint To Enjoin Sale*, Appendix D, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010), p. 867.

- WEST KEY NUMBERS:**
- SECURED TRANSACTIONS
 - # 229. Dispossession of collateral
 - # 229.1. — In general
 - # 230. — Notice
 - # 231. — Manner of disposition in general
 - # 232. — Public or private sale
 - # 233. — Purchase by secured party
 - # 234. — Effect of disposition
 - # 235. — Title and rights of purchaser
 - # 236. — Setting aside
 - # 237. — Application of proceeds
 - # 238. — Compulsory disposition

- DIGESTS:**
- DOWLING'S DIGEST: *Secured Transactions*
4. Rights and remedies of buyer and seller

- COURT CASES:**
- [Mack Financial Corporation v. Crossley](#), 209 Conn. 163, 166, 550 A.2d 303 (1988). “For entirely consumer transactions, by contrast, Connecticut case law has assigned a more serious consequence to a

failure to give the notification of sale that 42-98 (d) [now 36a-785(d)] makes a procedural requirement. We must bear in mind that we are dealing with consumer legislation, whose interpretation is to be guided by its remedial purpose of protection for retail buyers."

- [Elm Buick Co. v. Moore](#), 150 Conn. 631, 633-634, 192 A.2d 638 (1963). "The defendant claims that the quoted provision of 42-98 (d) as to notice required that the written notice actually be received by him and that Since it was not, he is not liable for any deficiency judgment.

The disjunctive phrase "or by" in 42-98 (d) clearly expresses a legislative intention that there shall be two separate methods of giving to the retail buyer written notice of a proposed resale of his car after a repossession because of a default in installment payments. The notice may be given personally wherever the buyer is found. It may also be given by registered or certified mail directed to the buyer at his last-known place of business or residence. Thus, the statute, by its express terms, provides that either method may be used at the option of the holder of the installment contract."

ENCYCLOPEDIAS:

- 68A [AM. JUR. 2d Secured Transactions](#)
 - §§ 580-658. Right to dispose of collateral; Effect of disposition
- 79 [C.J.S. Secured Transactions](#) (2006).
 - §§ 201-218. Nonjudicial disposition of collateral by secured party
- Richard C. Tinney, Annotation, *Failure Of Secured Party To Make "Commercial Reasonable" Disposition Of Collateral Under UCC § 9-504(3) As Bar To Deficiency Judgment*, 10 [ALR4th](#) 413 (1981).
- *Cause Of Action By Secured Creditor Under UCC § 9-504 To Recover Deficiency Following Repossession And Disposition Of Collateral*, 12 [COA](#) 77 (1987).
 - § 11. Compliance with UCC § 9-504(3). Generally
 - § 12. Notice of disposition of collateral
 - § 13. —Content of notification
 - § 14. —Manner of notification
 - § 15. —Time of notification
 - § 16. —Right to sell without notification
 - § 17. — Commercial reasonable disposition
 - § 18. —Method of disposition
 - § 19. —Manner of disposition
 - § 20. —Time of disposition
 - § 21. —Place of disposition
 - § 22. —Terms of disposition
 - § 23. —Other ways of showing commercial reasonableness
 - § 24. Rebutting presumption that deficiency resulted from noncompliance
 - § 25. Debtor's waiver of rights
 - § 26. Recovery from party secondarily liable. Generally
- Annotation, *Construction Of Term "Debtor" As Used In UCC § 9-504(3), Requiring Secured Party To Give Notice To Debtor Of Sale Of Collateral Securing Obligation*, 5 [ALR4th](#) 1291 (1981).
- Boyd J. Peterson, Annotation, *Secured Transactions: What Is "Public" Or "Private" Sale Under UCC § 9-504(3)*, 60 [ALR4th](#) 1012 (1988).
- Richard C. Tinney, Annotation, *Sufficiency Of Secured Party's Notification Of Sale Or Other Intended Disposition Of Collateral Under UCC § 9-504(3)*, 11 [ALR4th](#) 241 (1982).

- TEXTS & TREATISES:**
- [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed, 2010).
 - Chapter 10. Creditor's sale of the collateral
 - § 10.1. Creditor must sell, lease or otherwise dispose of collateral
 - § 10.2. Commercial reasonableness standard
 - § 10.3. Creditor's duties toward collateral
 - § 10.4. Notice of sale
 - § 10.5. Timing of sale
 - § 10.6. Public versus private sale
 - § 10.7. Requirements for a commercially reasonable sale
 - § 10.8. Sale price and commercial reasonableness
 - § 10.9. Purchase by creditor
 - § 10.10. Wholesale disposition
 - § 10.11. "Churning": revolving repossession schemes
 - § 10.12. Rights of purchasers at repossession sales
 - [EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE](#) (2008).

- LAW REVIEWS:**
- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75 [CONN. BAR J.](#) (December 2001).
 - David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 YALE L.J. 185 (1967).

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Section 6:

Action to Recover Deficiency

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to resale and an action to recover deficiency.

DEFINITION:

- "'Since RISFA is a remedial statute, [the court] must construe it liberally in order to implement its consumer protection policies.' *Barco Auto Leasing Corp. v. House*, 202 Conn. 106, 116, 520 A.2d 162 (1987). 'In consumer transactions, strict compliance with statutory provisions that prescribe the informational content of retail instalment contracts is mandatory and is not excused by inadvertence.' *Gaynor v. Union Trust Co.*, 216 Conn. 458, 475, 582 A.2d 190 (1990)." Condor Capital Corp v. Faust, No. CV99 036 04 61 (Aug. 25, 2000).
- **Deficiency on resale:** "Notwithstanding that the proceeds of the resale are not sufficient to defray the actual and reasonable expenses thereof, and also such actual and reasonable expenses of any retaking and storing of such goods and the balance due under the contract, the holder of the contract may not recover the deficiency from the retail buyer or any surety or guarantor for him, or from any one who has succeeded to the obligations of such retail buyer, **except . . . [for motor vehicle or boat, the aggregate cash price of which was more than two thousand dollars.]**" CONN. GEN. STATS. § 36a-785(f) (2011). [emphasis added].
- **Fair market value.** "If the goods retaken consist of a **motor vehicle** the aggregate cash price of which was more than two thousand dollars, the prima facie fair market value of such motor vehicle shall be calculated by adding together the average trade-in value for that motor vehicle and the average retail value for that motor vehicle and dividing that sum by two. Such average trade-in value and average retail value shall be determined by the values as stated in the National Automobile Dealers Association Used Car Guide, Eastern Edition, as of the date of repossession. If the goods retaken consist of a **boat** the aggregate cash price of which was more than two thousand dollars, the prima facie fair market value of such boat shall be calculated by adding together the average trade-in value for that boat and the average retail value for that boat and dividing that sum by two. Such average trade-in value and average retail value shall be determined by the values as stated in the National Automobile Dealers Association Appraisal Guide for Boats, Eastern Edition, as of the date of repossession. In the event that the value of such motor vehicle or boat is not stated in such publication, then the fair market value at retail minus the reasonable costs of resale shall be determined by the court. The prima facie evidence of fair market value of such motor vehicle or boat so determined may be rebutted only by direct in-court testimony. If such value of the motor vehicle or boat is less than the balance due under the contract, plus the actual and reasonable expenses of the retaking of possession, the holder

of the contract may recover from the retail buyer, or from anyone who has succeeded to his obligations, as a deficiency, the amount by which such liability exceeds such fair market value, as defined in this subsection. If the actual resale price received by the holder exceeds such fair market value, as defined in this subsection, the actual resale price shall govern.” GEN. STATS. [§ 36a-785\(g\)](#) (2011). [emphasis added]

STATUTES:

- CONN. GEN. STAT. (2011)
 - Chapter 669. Banking Law of Connecticut. Regulated activities
 - Part XI. **Retail installment sales financing**
 - [§ 36a-770](#). Applicability of Uniform Commercial Code. Filing and recording. Definitions
 - “(a) Uniform Commercial Code. A transaction subject to sections 36a-770 to 36a-788, inclusive, 42-100b and 42-100c is also subject to the Uniform Commercial Code, title 42a, but in case of any conflict the provisions of sections 36a-770 to 36a-788, inclusive, 42-100b and 42-100c shall control.”
 - [§ 36a-785](#). Foreclosure
 - (d). Compulsory resale
 - (e). Proceeds of resale
 - (f). **Deficiency on resale**
 - (g). Fair market value
 - (h). Election of remedies
 - (i). Recovery of part payments
 - (j). Waiver of statutory protection
 - (k). Loss
 - [§ 36a-786](#). Recovery of charges barred by wilful violations
 - [§ 36a-787](#). Penalty
 - [§ 36a-788](#). Enforcement action
- Title 42a. Uniform Commercial Code
 - Article 9. Secured Transactions
 - [§ 42a-9-610](#). Disposition of collateral after default

PLEADINGS:

- *Sample Complaint, Cause Of Action By Secured Creditor Under UCC § 9-504 To Recover Deficiency Following Repossession And Disposition Of Collateral*, 12 [COA](#) 77 § 52 (1987).
- *Sample Answer And Counterclaims To Deficiency Action*, Appendix D.1, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
- *Additional Counterclaims and Defenses Based on UCC Section 9-615(f)*, Appendix D.2, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).

WEST KEY NUMBERS:

- SECURED TRANSACTIONS
 - # 240. Deficiency and personal liability

DIGESTS:

- DOWLING’S DIGEST: *Secured Transactions*
 - 4. Rights and remedies of buyer and seller

COURT CASES

- [Savings Bank of New Britain v. Booze](#), 34 Conn. Sup. 632, 635-636, 382 A.2d 226 (1977). “By electing the remedy of repossession and resale, the plaintiff was bound to comply with certain provisions of the code. General Statutes 42a-9-501 (3). One provision of the code which

cannot be waived is subsection (3) of 42a-9-504. That subsection allows the secured party to dispose of the collateral by public or private sale but requires that ‘every aspect of the disposition including the method, manner, time, place and terms must be commercially reasonable.’ Subsection (3) also provides that unless the ‘collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, reasonable notification of the time and place of any public sale or reasonable notification of the time after which any private sale or other intended disposition is to be made shall be sent by the secured party to the debtor’ This provision of the code contemplates that written notice of the intended sale must be sent to the debtor.”

- Condor Capital Corp v. Faust, No. CV99 036 04 61 (Aug. 25, 2000). “The sole issue before the court is whether the plaintiff complied with the provisions of the Retail Instalment Sales Financing Act (RISFA), General Statutes § 36a-770 et seq., thereby entitling it to recover a deficiency, pursuant to § 36a-785 (g).

ENCYCLOPEDIAS:

- 68A AM. JUR. 2d Secured Transactions
§§ 649-658. Debtor’s liability for deficiency; Deficiency judgment
- 79 C.J.S. Secured Transactions (2006).
§§ 223-226. Deficiency and personal liability; redemption of collateral
- Richard C. Tinney, Annotation, *Failure Of Secured Party To Make “Commercial Reasonable” Disposition Of Collateral Under UCC § 9-504(3) As Bar To Deficiency Judgment*, 10 ALR4th 413 (1981).
- *Cause Of Action By Secured Creditor Under UCC § 9-504 To Recover Deficiency Following Repossession And Disposition Of Collateral*, 12 COA 77 (1987).
- Caroline Zane, Annotation, *UCC:Value Of Trade-In Taken On Sale Of Collateral For Purposes Of Computing Surplus Or Deficiency*, 72 ALR4th 1128 (1989).

TEXTS & TREATISES:

- NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES (7th ed, 2010).
 - Chapter 11. Determining the deficiency or surplus
 - § 11.1. General rules regarding deficiency or surplus
 - § 11.2. Deficiency or surplus calculation must be explained to consumer.
 - § 11.3. Calculating the deficiency or surplus
 - Chapter 12. Defending a deficiency action
 - § 12.1. Introduction
 - § 12.2. Creditor’s right to a deficiency
 - § 12.3. No deficiency when underlying debt is extinguished
 - § 12.4. State anti-deficiency statutes
 - § 12.5. Creditor’s action may amount to strict foreclosure and preclude a deficiency
 - § 12.6. Defective disposition as defense to deficiency action
 - § 12.7. Statute of limitations for creditor’s deficiency claim
 - § 12.8. Procedural defenses and state notice requirements
 - § 12.9. Cosigners and other sureties’ defenses to deficiency action
 - § 12.10. Raising defenses to FDIC or RTC deficiency actions
- EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE

(2008).

WEBSITE:

- [REPOSSESSION IN CONNECTICUT](#)

LAW REVIEWS:

- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75 [CONN. BAR J.](#) 294 (December 2001).
- David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 YALE L.J. 185 (1967).

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*Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 7:

Defenses to Repossessions

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to defenses of both debtor and creditor in repossession.

DEFINITION:

- **Violations:** “The issue before the court is whether the defendant, who has violated General Statutes § 42-98 [now 36a-785] of the Retail Installment Sales Financing Act (RISFA) and General Statutes § 42a-9-504 of the Uniform Commercial Code (UCC), must pay damages under each statute to the injured plaintiff. We conclude that, because the remedies are not explicitly exclusive, there is no conflict between the two provisions. Accordingly, both must be given concurrent effect and cumulative remedies must be awarded.” [Jacobs v. Healey Ford-Subaru, Inc.](#), 231 Conn. 707, 708-711, 652 A.2d 496 (1995).
- **Commercially unreasonable disposition of collateral:** “Every aspect of a disposition of collateral, including the method, manner, time, place and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.” CONN. GEN. STATS. [§ 42a-9-610\(b\)](#) (2011).

STATUTES:

- CONN. GEN. STAT. (2011)
Chapter 669. Banking Law of Connecticut. Regulated activities
Part XI. **Retail installment sales financing**
 - [§ 36a-770](#). Applicability of Uniform Commercial Code. Filing and recording. Definitions
 - [§ 36a-771](#). General contract requirements
 - [§ 36a-774](#). Installment loan contract requirements
 - [§ 36a-775](#). Confession of judgment provision invalid
 - [§ 36a-776](#). Inclusion of other goods in contract void
 - [§ 36a-777](#). Acknowledgment of receipt of notice and statement
 - [§ 36a-778](#). Delinquency and collection charges
 - [§ 36a-779](#). Assignment of contract
 - [§ 36a-780](#). Payments after assignment
 - [§ 36a-781](#). Statement of payments made. Receipts
 - [§ 36a-782](#). Cancellation of contract on payment in full
 - [§ 36a-783](#). Rebate and refund upon prepayment of contract
 - [§ 36a-784](#). Renewals and extensions
 - [§ 36a-785](#). Foreclosure
 - (d). Compulsory resale
 - (e). Proceeds of resale
 - [§ 36a-786](#). Recovery of charges barred by wilful violations
 - [§ 36a-787](#). Penalty
 - [§ 36a-788](#). Enforcement action

- PLEADINGS:**
- *Sample answer and counterclaims, complaint to enjoin sale; section 1983 complaint.* Appendix D, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
 - *Sample Automobile Repossession Discovery and Request For Admissions,* Appendix E, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
- DISCOVERY:**
- *Sample first set of interrogatories,* Appendix E.1, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
 - *Sample Document Request,* Appendix E.2, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
 - *Sample Supplemental Interrogatories for Dealer Only Auto Auction,* Appendix E.3, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
 - *Sample Second Document Request,* Appendix E.4, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
 - *Sample Request for Admissions Regarding Vehicle Valuation,* Appendix E.5, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
- WEST KEY NUMBERS:**
- SECURED TRANSACTIONS
 - # 242. Wrongful enforcement
 - # 242.1 — In general
 - # 243. — Damages and amount of recovery
- DIGESTS:**
- DOWLING'S DIGEST: *Secured Transactions*
 - 4. Rights and remedies of buyer and seller
- COURT CASES:**
- [Keyes v. Brown](#), 155 Conn. 469, 473-474, 232 A.2d 486 (1967). “Obviously, the purpose of the contract requirement provisions set forth in 42-84 [now 36a-771] is to protect retail buyers of goods from unknowingly assuming excessive charges by requiring that all charges and terms be fully set forth by the retail seller before the contract is signed by the buyer, and by requiring that the buyer be immediately given a copy of the complete, executed contract On the basis of the plain purpose of the statute and the language used therein, we construe the contract requirement provisions of this statute to be mandatory.”
- The Appellate Division correctly concluded that a retail buyer is entitled to seek a rescission of a retail installment contract when the retail seller has not complied with the provisions of 42-84 [now 36a-771]. It erred, however, in ordering a rescission of the present contract.” Ibid. 476.
- ENCYCLOPEDIAS:**
- 68A [AM. JUR. 2d Secured Transactions](#) (2003).
 - §§ 686-726. Effect of secured party's failure to comply with code
 - 79 [C.J.S. Secured Transactions](#) (2006).
 - *Cause Of Action By Secured Creditor Under UCC § 9-504 To Recover Deficiency Following Repossession And Disposition Of Collateral*, 12 [COA](#) 77 (1987).
 - § 2. Overview of creditor's remedies
 - § 3. Related and alternative actions
 - § 4. —Debtor's action for damages
 - § 27. Defenses

- § 28. Wrongful repossession and sale
- § 29. Lack of notice of disposition of collateral
- § 30. —Untimely notice
- § 31. —Incomplete or inaccurate notice
- § 32. Disposition of collateral not commercially reasonable
- § 33. —Improperly timed sale
- § 34. —Inadequate public notice or private solicitation
- § 35. —Self-Dealing or collusive sale
- § 36. Satisfaction of indebtedness
- § 37. Other defenses
- Richard C. Tinney, Annotation, *Failure Of Secured Party To Make "Commercially Reasonable" Disposition Of Collateral Under UCC § 9-504(3) As Bar To Deficiency Judgment*, 10 [ALR4th](#) 413 (1981).
- Gary D. Spivey, Annotation, *Uniform Commercial Code: Burden Of Proof As To Commercial Reasonable Disposition Of Collateral*, 59 [ALR3d](#) 369 (1974).
- *Failure To Act In Commercially Reasonable Manner In Resale Of Goods*, 13 [POF2d](#) 411 (1977).
- Richard C. Tinney, Annotation, *Sufficiency Of Secured Party's Notification Of Sale Or Other Intended Disposition Of Collateral Under UCC § 9-504(3)*, 11 [ALR4th](#) 241 (1982).

TEXTS & TREATISES:

- [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
 - Chapter 2. Scope and sources of law
 - § 2.5.3.2. Federal civil rights law
 - Chapter 4. Default as precondition to seizure
 - § 4.7. Remedies
 - Chapter 8. Using bankruptcy to prevent repossession
 - Chapter 13. Affirmative consumer remedies in repossession cases
 - § 13.1. Introduction
 - § 13.2. UCC § 9-625 remedies
 - § 13.2.2. Injunctive relief
 - § 13.2.3. Actual damages
 - § 13.2.4. Statutory damages under UCC § 9-625(c)(2)
 - § 13.2.5. Supplemental \$500 damages for miscellaneous violations
 - § 13.2.6. Class actions, multiple statutory damages, and interrelation with other damage awards
 - § 13.2.7. Barring a deficiency and recovering UCC actual and statutory damages
 - § 13.2.8. Statute of limitations for claims under § 9-625
 - § 13.3. Remedies for violation of UCC's good faith requirement
 - § 13.4. UDAP, RICO and unconscionability
 - § 13.4.5. Unconscionability
 - § 13.5. Laws regulating repossession, collections, or credit
 - § 13.5.1. The Federal Fair Debt Collection Practice Act
 - § 13.5.2. State debt collection laws
 - § 13.5.3. Truth in Lending
 - § 13.5.4. Remedies under state consumer credit statutes
 - § 13.5.5. State limits on professional reposessors
 - § 13.5.6. State criminal laws
 - § 13.6. Common law tort, replevin, and contract claims
 - § 13.7. Civil rights violations and constitutional remedies

- § 13.8. U.S. Bankruptcy code
- § 13.9. Consumer remedies based on claims or counterclaims not related to repossession
- § 13.10. **Creditor defenses**
 - § 13.10.1. Debtor's consent as defense to wrongful repossession
 - § 13.10.2. Debtor's contractual waiver of action for wrongful repossession
 - § 13.10.3. Contractual waivers of consumer's right to sue for personal property taken with collateral
 - § 13.10.4. Creditor's liability for the act of reposessors
- § 13.11. Litigation issues

- [EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE](#) (2008).

WEBSITE:

- [REPOSESSION IN CONNECTICUT](#)

LAW REVIEWS:

- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75 [CONN. BAR J.](#) 294 (December 2001).
- David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 [YALE L.J.](#) 185 (1967).

COMPILER:

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*Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Section 8:

Wrongful Repossession

A Guide to Resources in the Law Library

SCOPE:

- Bibliographic resources relating to wrongful repossession and remedies.

DEFINITION:

- **Violations:** “The issue before the court is whether the defendant, who has violated General Statutes § 42-98 [now 36a-785] of the Retail Installment Sales Financing Act (RISFA) and General Statutes § 42a-9-504 of the Uniform Commercial Code (UCC), must pay damages under each statute to the injured plaintiff. We conclude that, because the remedies are not explicitly exclusive, there is no conflict between the two provisions. Accordingly, both must be given concurrent effect and cumulative remedies must be awarded.” [Jacobs v. Healey Ford-Subaru, Inc.](#), 231 Conn. 707, 708-711, 652 A.2d 496 (1995).
- **Conversion:** “The tort of conversion boasts a well established definition which is not disputed by the parties. ‘Conversion occurs when one, without authorization, assumes and exercises the right of ownership over property belonging to another, to the exclusion of the owner’s rights. [Falker v. Samperi](#), 190 Conn. 412, 419, 461 A.2d 681 (1983).’” [Luciani v. Stop & Shop Cos.](#), 15 Conn. App. 407, 409-410, 544 A.2d 1238 (1988).

STATUTES:

- CONN. GEN. STAT. (2011)
 - Chapter 669. Banking Law of Connecticut. Regulated activities
 - Part XI. **Retail installment sales financing**
 - [§ 36a-770](#). Applicability of Uniform Commercial Code. Filing and recording. Definitions
 - [§ 36a-771](#). General contract requirements
 - [§ 36a-774](#). Installment loan contract requirements
 - [§ 36a-775](#). Confession of judgment provision invalid
 - [§ 36a-776](#). Inclusion of other goods in contract void
 - [§ 36a-777](#). Acknowledgment of receipt of notice and statement
 - [§ 36a-778](#). Delinquency and collection charges
 - [§ 36a-779](#). Assignment of contract
 - [§ 36a-780](#). Payments after assignment
 - [§ 36a-781](#). Statement of payments made. Receipts
 - [§ 36a-782](#). Cancellation of contract on payment in full
 - [§ 36a-783](#). Rebate and refund upon prepayment of contract
 - [§ 36a-784](#). Renewals and extensions
 - [§ 36a-785](#). Foreclosure
 - (d). Compulsory resale
 - (e). Proceeds of resale
 - [§ 36a-786](#). Recovery of charges barred by wilful violations
 - [§ 36a-787](#). Penalty
 - [§ 36a-788](#). Enforcement action

PLEADINGS:

- Sample Complaint Alleging Violation of 42 U.S.C. § 1983, *Conversions*, and Breach of Peace, Appendix D.4, [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).

CONNECTICUT SUPREME COURT RECORDS & BRIEFS:

- Sample 1: Second revised complaint (plaintiff)
[Jacobs v. Healey Ford-Subaru, Inc.](#), 231 Conn. 707 (1995)
- Sample 2: Answer to second revised complaint (defendant)
[Jacobs v. Healey Ford-Subaru, Inc.](#), 231 Conn. 707 (1995)
- Sample 3: Answer to counterclaim
[Jacobs v. Healey Ford-Subaru, Inc.](#), 231 Conn. 707 (1995)

WEST KEY NUMBERS:

- SECURED TRANSACTIONS
 - # 242. Wrongful enforcement
 - # 242.1 — In general
 - # 243. — Damages and amount of recovery

DIGESTS:

- DOWLING'S DIGEST: *Secured Transactions*
 - 4. Rights and remedies of buyer and seller

COURT CASES

- [Ames v. Commissioner of Motor Vehicles](#), 70 Conn. App. 790, 802 A.2d 126 (2002).
- [Jacobs v. Healey Ford-Subaru, Inc.](#), 231 Conn. 707, 652 A.2d 496 (1995).
- [Fox v. First Bank](#), 198 Conn. 34, 35-36, 501 A.2d 747 (1985). “When the plaintiff defaulted in the payment of sums due under the retail installment contract, the defendant, on September 2, 1981, repossessed the car without judicial intervention in accordance with General Statutes 42-98.[fn2] On the same day that the car was repossessed, the plaintiff filed this action for wrongful repossession and the trial court, Hadden, J., without a hearing, issued a temporary restraining order to prevent the sale or transfer of the car.”
- [Velazquez v. Marine Midland Automotive Financial Corporation](#), 24 Conn. App. 455, 501 A.2d 747 (1985).

UNREPORTED CASES

- [Clemens v. Circuit City Stores, Inc.](#) 24 Conn. L. Rptr No.2, 55, 1999 WL 61408 (February 2, 1999). “The plaintiff has alleged facts sufficient to state a cause of action for intentional misrepresentation and a violation of CUTPA. Accordingly, the court denies the defendant's motion to strike counts one and four of the amended complaint.”
- [Wickham v. Mayflower Kenworth, Inc.](#), No. 31 97 52, 1993 WL 498970 (Nov. 24, 1993). “This dispute arises out of the purchase and sale of a Kenworth Tractor and its subsequent repossession by the defendant Savage, the seller. The plaintiff buyer in a four count complaint has alleged a wrongful repossession, CUTPA violations, and unjust enrichment - as to the defendant Savage. The fourth count is against the defendant Mayflower-Kenworth for the ‘negligent surrender of the vehicle to the defendant Savage.’”

ENCYCLOPEDIAS:

- 68A [AM. JUR. 2d Secured Transactions](#) (2003).
§§ 686-726. Effect of secured party's failure to comply with code
- 79 [C.J.S. Secured Transactions](#) (2006).
§§ 227-233. Liability for wrongful enforcement; remedies for

wrongful enforcement.

- Jay M. Zitter, Annotation, *Secured Transactions: Right Of Secured Party To Take Possession Of Collateral On Default Under UCC § 9-503*, 25 [ALR5th](#) 696 (1994).
- Jonathan M. Purver, Annotation, *Punitive Damages For Wrongful Seizure Of Chattel By One Claiming Security Interest*, 35 [ALR3d](#) 1016 (1971).
- *Cause Of Action For Conversion Of Collateral Based On Wrongful Self-Help Repossession*, 15 [COA](#) 347 (1988).
- *Cause Of Action By Secured Creditor Under UCC § 9-504 To Recover Deficiency Following Repossession And Disposition Of Collateral*, 12 [COA](#) 77 (1987).
 - § 28. Wrongful repossession and sale
- *Liability Of Creditor And Repossession Agent For Wrongful Repossession And Tortious Acts Committed During Repossession*, 42 [POF 3d](#) 355 (1997).

TEXTS & TREATISES:

- [NATIONAL CONSUMER LAW CENTER, REPOSSESSIONS AND FORECLOSURES](#) (7th ed. 2010).
 - Chapter 2. Scope and sources of law
 - § 2.5.3.2. Federal civil rights law
 - Chapter 4. Default as precondition to seizure
 - § 4.7. Remedies
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 - § 13.1. Introduction
 - § 13.2. UCC § 9-625 remedies
 - § 13.2.3. Actual damages
 - § 13.2.6. Class actions, multiple statutory damages, and interrelation with other damage awards
 - § 13.2.8. Statute of limitations for claims under § 9-625
 - § 13.3. Remedies for violation of UCC's good faith requirement
 - § 13.4. UDAP, RICO and unconscionability
 - § 13.4.5. Unconscionability
 - § 13.5. Laws regulating repossession, collections, or credit
 - § 13.5.1. The Federal Fair Debt Collection Practices Act
 - § 13.6. Common law torts, replevin and contract claims
 - § 13.7. Civil rights violations and constitutional remedies
 - § 13.8. U.S. Bankruptcy code
 - § 13.9. Consumer remedies based on claims or counterclaims not related to repossession
 - § 13.10. Creditor defenses
 - § 13.10.2. Debtor's contractual waiver of action for wrongful repossession
 - § 13.11. Litigation issues
- [EDWARD A. WEISS ET AL., CONNECTICUT SECURED TRANSACTIONS UNDER REVISED ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE](#) (2008).

WEBSITE:

- [REPOSESSION IN CONNECTICUT](#)

LAW REVIEWS:

- Michael F. Maglio and Thomas J. Welsh, *Connecticut Revisions To The Official Text Of Revised Article 9 Of The Uniform Commercial Code*, 75

[CONN. BAR J.](#) 294 (December 2001).

- David Mellinkoff, *The Language of the Uniform Commercial Code*, 77 YALE L.J. 185 (1967).

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*Originally compiled by Lawrence Cheeseman, retired Connecticut Judicial Branch Supervising Law Librarian.

Sample 1 Complaint for Wrongful Repossession

CV 90 0031301 S : Superior Court

DAWN JACOBS : Judicial District of Ansonia

v. : at Milford

HEALEY FORD-SUBARU, INC. : June 28, 1990

SECOND REVISED COMPLAINT

1. On October 17, 1988, the plaintiff bought a used 1937 Ford Tempo from defendant pursuant to a Retail Installment Contract which included a security interest in the vehicle.

2. The cash price was \$10,647.03, the amount financed was \$10,898.90, and the finance charge was \$4196.14.

3. On May 24, 1989, defendant's assignor purported to repossess the vehicle from defendant's premises for nonpayment.

4. The vehicle and contract were returned to defendant pursuant to a recourse or guarantee agreement.

5. Neither defendant nor its assignor complied with § 42a-9-504 or §42-98 C.G.S. in one or more of the following respects;

(a) Neither gave plaintiff advance notice of the proposed repossession which complied with § 42-98(a); or

(b) Neither gave plaintiff proper notice of the right to redeem under § 42-98(b); or

(c) defendant did not give reasonable notice of the proposed sale as required by § 42-98 or 42a-504; or

(d) defendant did not give plaintiff notice properly itemizing the disposition of the proceeds as required by § 42-98(e); or

(e) defendant did not credit plaintiff with the statutory fair market value of the vehicle as required by § 42-98(d); or

(f) defendant did not sell the vehicle within 180 days of the repossession as required by §42-98(d)

C.G.S.; or

(g) defendant failed to reposess or resell the vehicle in a commercially reasonable method, manner, time, place or terms (§ 42-9-504 C.G.S.).

6. Plaintiff seeks minimum statutory damages of \$6,500, costs and attorneys fees, pursuant to the Uniform Commercial Code, § 42a-9-507 C.G.S, the Retail Instalment Sales Financing Act, § 42-98 C.G.S.; and nominal actual and substantial punitive damages and attorneys fees under the Unfair Trade Practices Act, C.G.S. § 42-110a, the Creditors' Collection Practices Act, C.G.S. § 36-243a, and such other relief as is just and equitable.

THE PLAINTIFF

BY _____

This is to certify that a copy of the foregoing was mailed postage prepaid, to:

Sample 2 Answer to Complaint

DN: CV 90 0031301 S : Superior Court
DAWN JACOBS : Judicial District of Ansonia/Milford
v. : at
HEALEY FORD-SUBARU, INC. : APRIL 23, 1993

ANSWER TO SECOND REVISED COMPLAINT

SECOND REVISED COMPLAINT

1. The defendant, Healey Ford-Subaru, Inc. hereby denies Paragraphs 1, 3 and 6 of the Second Revised Complaint.
2. As to Paragraphs 2, 4 and 5 of the Second Revised the defendant, Healey Ford-Subaru, Inc. has insufficient knowledge to form a belief and therefore leaves to plaintiff to her proof

COUNTERCLAIM

1. On October 17, 1988 the plaintiff bought a used 1987 Ford Tempo from the defendant, and financed the purchase price of \$10,647.03. The Ford Motor Credit thereafter had a security interest in said vehicle.

2. Thereafter, the plaintiff defaulted on said payments of said retail installment contract, and said vehicle was repossessed by the Ford Motor Credit Company.

3. Thereafter, Ford Motor Credit Company reassigned said retail installment contract and vehicle to the defendant.

4. The plaintiff to date, has not paid the balance due on said retail installment contract, to wit: \$1,608.07.

WHEREFORE the defendant prays that the plaintiff be ordered to pay the sum of \$1,608.07, and reasonable attorney's fees and interest.

THE DEFENDANT

CERTIFICATION

I hereby certify that a copy of the foregoing was mailed to all counsel of record on the of aftersaid date.

Sample 3 Answer to Counterclaim

DN: CV 90 0031301 S : Superior Court
DAWN JACOBS : Judicial District of Ansonia/Milford
v. : at
HEALEY FORD-SUBARU, INC. : APRIL 23, 1993

ANSWER TO COUNTERCLAIM

1. Admitted.
2. Plaintiff admits that the vehicle was repossessed by the Ford Motor Credit Company and denies the balance of the allegation.
3. Admitted.
4. Denied

THE PLAINTIFF

BY _____

Name
ATTORNEY AT LAW
Address
Phone Number

This is to certify that a copy of the foregoing was mailed postage prepaid, to:

Glossary of Terms

Retail Installment Sales Financing Act (RISFA): "General Statutes § 36a-785 sets out the procedure that a holder of a retail installment contract must follow in order to repossess goods after a retail buyer breaches the contract. This section provides, in pertinent part: '(a) Repossession. When the retail buyer is in default in the payment of any sum due under the retail installment contract . . . the holder of the contract may take possession thereof. . . ." General Statutes § 36a-785 (a)." GE Capitol Auto Lease, Inc. v. Blackwell, No. CV97 0059201S, J.D. Ansonia-Milford (Sep. 5, 2001).

Uniform Commercial Code (UCC): A nine-article act promulgated by the National Conference of Commissioners on Uniform State Laws and the American Law Institutes "relating to certain Commercial Transactions in or regarding Personal Property and Contracts and other Documents concerning them, including Sales, Commercial Paper, Bank Deposits and Collections, Letters of Credit, Bulk Transfers, Warehouse Receipts, Bills of Lading, other Documents of Title, Investment Securities, and Secured Transactions . . ." Article 2A applies to leases and Article 9 to Secured Transactions. In Connecticut, the act is codified as Title 42a of the General Statutes of Connecticut. The UCC has been adopted in some way by all fifty states.